

File under 149139



Comptroller General
of the United States
Washington, D.C. 20548

Decision

100-100

Matter of: LRL Sciences, Inc.
File: B-251903
Date: May 3, 1993

S. Ricardo Narvaiz, Esq., Alexander, Gebhardt, Aponte & Marks, for the protester.
James Tower, Esq., and Ronald E. Cone, Department of Energy, for the agency.
John L. Formica, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency's elimination of the protester's proposal from the competitive range was reasonable where the protester's proposal failed to demonstrate an understanding of the requirements of the solicitation's statement of work (SOW) and failed to demonstrate that the protester's proposed personnel had experience relevant to the requirements of the SOW.

DECISION

LRL Sciences, Inc. protests the exclusion of its proposal from the competitive range under request for proposals (RFP) No. DE-RP04-92AL82548, issued by the Department of Energy (DOE) for technical and management support services for DOE's Albuquerque field office. LRL argues that the evaluation of its proposal was unreasonable.

We deny the protest.

The RFP, issued as a competitive set-aside under section 8(a) of the Small Business Act, 15 U.S.C. § 637(a) (1988 & Supp. III 1991), contemplated the award of a

¹Section 8(a) of the Small Business Act authorizes the Small Business Administration to enter into contracts with government agencies and to arrange for performance through subcontracts with socially and economically disadvantaged small business concerns. Federal Acquisition Regulation (FAR) § 19.805 and 13 C.F.R. § 124.311 (1992) provide for and (continued...)

training, and demonstrated performance of all proposed key personnel . . . by furnishing resumes." The RFP included a resume format, and specified that the resumes furnished "should be carefully prepared in order to reflect current experience and specific qualifications as applicable to the [RFP's statement of work (SOW)]." The RFP also set forth "personnel qualification requirements," which detailed certain education and experience requirements for proposed personnel.

The agency received seven proposals by the February 18, 1992, proposal due date. The agency determined that LRL's proposal had no reasonable chance of being selected for award and therefore excluded it from the competitive range because: (1) several of the protester's proposed personnel did not have experience relevant to the RFP requirements; (2) the proposal did not demonstrate an understanding of technology transfer and commercialization programs; and (3) the proposal did not demonstrate experience with the management and business systems required to successfully manage a task order level of effort contract.

LRL argues that the agency improperly evaluated its proposal since its proposed personnel are experienced in every category specified in the RFP, including technology transfer and commercialization, and the management of task order contracts.

The evaluation of proposals and the resulting determination as to whether an offer is in the competitive range are matters within the discretion of the contracting activity, since it is responsible for defining its needs and the best methods of accommodating them. Abt Assocs. Inc., B-237060.2, Feb. 26, 1990, 90-1 CPD ¶ 223. In reviewing protests against competitive range determinations, our Office will not reevaluate the proposals for the purpose of substituting our judgment for that of the agency. Consultants & Designers, Inc., B-247923.2, July 22, 1992, 92-2 CPD ¶ 40. Instead, we examine the agency's evaluation to ensure that it was reasonable and in accord with the evaluation criteria. Hummer Assocs., B-236702, Jan. 4, 1990, 90-1 CPD ¶ 12. A protester's mere disagreement with the agency does not render the evaluation unreasonable. The Travel Co., Inc., B-249560.2, Feb. 15, 1993, 93-1 CPD ¶ 176.

The agency's source evaluation panel (SEP) found that LRL's proposed key personnel lacked experience relevant to the requirements of the RFP SOW. For example, the SEP found that LRL's proposed project manager lacked 5 years of experience as required by the RFP "in the management of a contract similar in scope to this procurement." Specifically, the SEP determined that LRL's proposed project manager lacked experience in the areas of nuclear waste

the RFP.² Based on our review of LRL's proposal, including the resumes, we cannot find that the agency acted unreasonably in downgrading LRL's proposal with regard to LRL's proposed personnel, inasmuch as the proposal resumes did not adequately address the minimum personnel qualification requirements required by the RFP. Engineering Mgmt. Resources, Inc., B-248866, Sept. 29, 1992, 92-2 CPD ¶ 217. In this regard, it is an offeror's responsibility to prepare an adequately written proposal which can be evaluated in accordance with the criteria set forth in the solicitation; an offeror runs the risk of being rejected if it does not submit an adequately written proposal. Cook Travel, B-238527, June 13, 1990, 90-1 CPD ¶ 571.

The agency also found that LRL's proposal did not demonstrate an understanding of the complexities of the management of technology transfer and commercialization programs. The protester does not substantively rebut the agency's determination here. Rather, the protester argues that there are "really no experts" in technology transfer because the primary legislation mandating technology transfer was not enacted until 1989. See National Competitiveness Technology Transfer Act of 1989, 103 Stat. 1674 (1989) (codified, as amended, at 15 U.S.C. §§ 3710, 3710a, & 3710c (Supp. III 1991)). The protester, however, adds "that there are persons with general knowledge" in technology transfer, and contends that its staff attorney "is about as knowledgeable as any person in this area," and that two of LRL's proposed program managers for industrial commercialization have experience in technology transfer.

LRL's proposal was downgraded by the agency because the proposal did not demonstrate an understanding of the requirements of the RFP with regard to technology transfer, and not because LRL's proposed personnel lacked experience in this area. As such, LRL's arguments concerning the existence of experts in this area and the relative experience of its staff attorney and program managers are not relevant to the propriety of the agency's determination that the proposal itself did not demonstrate an understanding of the complexities of technology transfer.³ Additionally, as

²While the LRL proposal includes a matrix that purportedly shows that the proposed personnel satisfy solicitation requirements, the resumes do not adequately detail the requested information.

³In any event, although LRL may be correct in its assertion regarding the experience of its staff attorney and program managers in technology transfer, this information is not reflected in its proposal. There is no mention at all of

(continued...)

including LRL's proposal, we do not find the agency's conclusion here to be unreasonable.

In sum, the foregoing deficiencies in LRL's proposal reasonably support DOE's exclusion of that firm from the competitive range.

The protest is denied.



for James F. Hinchman
General Counsel